REMARKS

CLAIM REJECTIONS

35 U.S.C. § 112

The Examiner has rejected claims 1 and 38-55 under **35 U.S.C. § 112**, first paragraph, because the specification, while being enabling for particular personal preferences which could be directly linked to particular essential oil, does not reasonably provide enablement for the general "analysis," conditions of "profile" and correlation between the "conditions of profile" and essential oil. The applicant has amended independent claim 1 to better exemplify the applicants invention. In particular the applicant has removed "performing an analysis" from the claim and has replaced it with "gathering data" and "processing said data". In addition, applicant has also better defined what is actually being processed, i.e. answers to a questionnaire. By amending the claim in this manner the claims now provide sufficient guidance, direction, and a better working example to enable a skilled artisan to fully understand and perform the claimed invention without undue experimentation. Support for this amendment may be found in the specification, in particular beginning on line 6 of page 9.

The examiner goes on to further state that one skilled artisan would have not known how to determine or select a certain oil, in particular the Examiner avers that the application never teaches how to select essential oils based on health, emotional or spiritual conditions. It is the applicant's contention that the specification as written provides sufficient disclosure to allow one skilled in the art of aromatherapy to use the invention commensurate in scope with the claims. Support for the applicant's contention may be best illustrated by the following facts and subsequent hypothetical example.

It is commonly known in the aromatherapy industry that certain essential oils have ideal therapeutic qualities. Basil oil for instance has known anti-inflammatory, antiseptic, antispasmodic and aphrodisiac properties associated with it. It is also commonly known in the aromatherapy industry that an aroma therapist is one who practices the art of aromatherapy. Let's say one were to go to an aroma therapist complaining of a burn or stagnant sex life, the aroma therapist might prescribe a bath infused with basil oil, or a basil oil massage. The point being one would expect an aroma therapist to know how to determine and select the appropriate essential oil, just as one would expect a doctor to know how to determine and select certain medications, and/or therapies after an office visit.

It is therefore the applicant's position that one who practices aromatherapy, i.e. an aroma therapist, should by all accounts be familiar with the different therapeutic properties associated with the many different essential oils, and as such should not need further teaching on how to select the appropriate oils.

In addition, the Examiner avers that the applicant fails to provide sufficient guidance, direction, or working example for carrying out the different steps of the proposed method, i.e. "analysis," "preparing," and "determining". Applicant would like to draw the Examiner's attention to Figs. 1-5 of the present application. These figures represent flow charts. A flow chart as defined by Merrian-Webster" is a diagram that shows step-by-step progression through a procedure or system especially using connecting lines and a set of conventional symbol," basically a pictorial representation describing a process. In everyday computer programming, computer programmers use flow charts when dealing with process analysis. The symbols used in the flow charts represent certain processes and/or commands to be performed. The symbols

8

used are ANSI standard symbols, which are known by artisans skilled in the art. For example a

parallelogram is used to represent data, a rectangle is used to represent a process and a oblong

circle is used to represent the end of a process. The diamond shaped symbol, such as the one

used in Fig. 3 of the present application, is used for representing a decision, a test, or a

comparison.

Generally each block of the flow chart will perform a simple algorithm, usually in the

form of matching, with an output usually in the form of "if this, then that", "if yes then do this",

or "if no then do this". Generally, after the matching is performed the output will determine

what the next step in the process is. This type of analysis, process and determination is common

in the computer programming industry. Line 18 of the last paragraph on page 11 of the present

application states "A determination is made E1 whether the oil has the same name as any other

oil(s) selected and confirmed." This is a matching process that is being implemented through out

the applicant's invention

The applicant requests the Examiner reconsider rejection of these claims in light of the

current amendment to the claims and the argument presented by the applicant.

The Examiner has rejected claims 1 and 38-55 under **35 U.S.C. § 112**, second paragraph,

as being indefinite for failing to particularly point out and distinctly claim the subject matter

which the applicant regards as the invention. In particular the Examiner avers that the applicant

fails to provide a definition for the term "profile". According to Webster's New World

Dictionary, Third College Edition, the word profile is defined as "a graph, diagram, piece of

writing, etc. presenting or summarizing data relevant to a *particular person* (emphasis added) or

thing." Beginning on the last line of page 6, of the applicant's patent application, the applicant

9

states "The method includes the steps of obtaining *personality and preference information*, (emphasis added). Also on line 7 of the penultimate paragraph on page 9, "This *data* may be entered onto a form and then transferred to the system. The *data* A1 is preferably answers to questions personality and preference questions. ", (emphasis added). In addition, the first sentence of the penultimate paragraph on page 13 states that a "personality *profile* (emphasis added) may be used where the treatment of Chakras is desired." It is the applicant's position that the specification as read, by one of ordinary skill in the art, provides a definition, or at the least a clear understanding of what is meant by the term profile as applied to the claims.

Furthermore, the applicant would like to bring to the attention of the Examiner the claim language from United States Patents 6,980,888, issued to Baker et al., and 6,959,119, issued to Hawkins et al. These are method patents, in particular they are method patents that implement basic computer programmer language. For example, in Baker the claims read:

    1. A method for predicting the result of the coloration of a substrate by a coloring product, said method comprising the steps of:

    a. inputting information relating to the coloring product in a micro-processing system,

    b. inputting information relating to the initial color of the substrate in the micro-processing system, wherein the information relating to the initial color of the substrate is a matching color selected from a predetermined set of colors, and wherein step a and b may be performed in any order,
c. predicting from the input information a likely result of the coloration of the substrate, and

    d. displaying the likely result.

    2. A method according to claim 1 wherein the substrate is hair and the product a hair dye product.

3. A method according to claim 1 wherein the predetermined set of colors is at least partially displayed on a computer screen when the matching color is selected.

4. A method according to claim 3 wherein the computer screen is an interactive screen.

5. A method according to claim 3 wherein the initial color and the at least partially displayed predetermined set of colors are simultaneously displayed so that the initial color and the at least partially displayed predetermined set of colors can be visually compared at the time of the selection of the matching color.

6. A method according to claim 5 wherein the initial color is displayed by a mirror reflecting the substrate.

7. A method according to claim 1 wherein the predetermined set of colors is ordered in a list according to a visually identifiable parameter and wherein the fraction displayed can be selected by a user.

8. A method according to claim 1 wherein the information relating to the initial color of the substrate is input by physically activating an electro-mechanical device capable of transforming a stimulus selected from a movement or a pressure, into an electronic signal.

9. A method according to claim 8 wherein the information relating to the initial color of the substrate is input by pressing a sensitive area of an interactive screen on which the predetermined set of colors is at least partially displayed.

10. A method according to claim 1 wherein the likely result of the coloration is displayed on a computer screen and is selected from a predetermined set of colors.

11. A method according to claim 1 wherein upon display of the likely result of the coloration, the method further comprises the subsequent steps of: e. inputting information relating to a desired color different from the result displayed in the predicting system, f. predicting at least one coloring product capable of providing the desired color to the substrate, and g. displaying information about the at least one coloring product capable of providing the desired color.

12. A method according to claim 11 wherein the information relating to the desired color is a color selected from a predetermined set of achievable colors.

13. A method according to claim 12 wherein the predetermined set of achievable colors is arranged as a list of achievable colors ordered according to a visually identifiable parameter and wherein only a fraction of said list of colors is displayed at

one time and wherein the fraction displayed can be selected by a user.

14. A method according to claim 13 wherein the colors are ordered in the list according to according to a parameter selected from the group consisting of lightness, tonal value and combinations thereof.

15. A method according to claim 11 wherein the predetermined set of achievable colors is displayed on an interactive computer screen.

16. A method according to claim 1 wherein the information relating to the coloring product is scanned from a bar-code figuring on the package of the coloring product and is transmitted to the micro-processing system through a bar-code scanning device.

If the Examiner compares the above claims of Baker to applicant's amended claims, it will become evident to the Examiner that the applicant's claims are within accepted claim format. The above Baker claims do not go into a detailed description of the determination process, that is to say that the claims simply, but effectively, describe the sequences needed to obtain the desired hair care colors. For example claim 1 reads:

1. A method for predicting the result of the coloration of a substrate by a coloring product, said method comprising the steps of:
a. inputting information relating to the coloring product in a micro-processing system,
b. inputting information relating to the initial color of the substrate in the micro-processing system, wherein the information relating to the initial color of the substrate is a matching color selected from a predetermined set of colors, and wherein step a and b may be performed in any order,
c. predicting from the input information a likely result of the coloration of the substrate, and

d. displaying the likely result.

Drawing the Examiner's attention to sub-paragraph c of the above claim, notice that this claim does not describe the process being used to predict the outcome, it merely states that a prediction is being made based on the inputted information.

Another example of this may be seen in United States letters of Patent to Hawkins, those claims read as follows:

1. A method for identifying progress of a cosmetic product treatment affect upon a consumer, the affect being personal to that consumer, the method comprising:

(i) selecting a cosmetic product for trial on the consumer's body and identifying a body feature being observed over a period of time;

(ii) capturing an initial image of the body feature;

(iii) displaying the initial image on a monitor;

(iv) providing an assessment of the initial image based on results of an expert grader study which has calculated consumer perceivable skin attributes on panelists with no treatment/product use;

(v) digitally transforming in a manner reflecting the effect of a recommended cosmetic over a period of time, based upon the assessment, of a property of the body feature of the consumer selected from color, sags, wrinkles, texture, radiance and combinations thereof, and displaying the transformed image tiled beside the initial image;

(vi) capturing a further image of the body feature at a later time after the product has been applied by the consumer;

(vii) allowing the consumer to compare results between the captured initial, digitally transformed, and later time captured images.

2. The method according to claim 1 wherein capturing step (ii) is performed by use of a digital camera and wherein the captured image is transmitted via Internet.

Applicant requests that the Examiner reconsider the rejection of claims 1 and 38-55,

based on the above arguments.

35 U.S.C. § 103

The Examiner has rejected claims 1 and 38-55, under 35 U.S.C.§ 103(a), as being unpatentable over Rigg et al., in view of Meador et al. In particular the Examiner avers that it would have been obvious to a person of ordinary skill in the art, at the time the claimed invention was made to employ the method of Rigg for customizing essential oil composition in a cosmetic product based on customer preference. It is the applicant's position that it Riggs, the primary reference, teaches away from Meador, the secondary reference. Riggs does not teach or suggest of individual customer preference. In fact one of the main objectives of Riggs is to reduce the time required for matching skin properties with particular optimum formula. Whereas the invention in Meador involves a lengthy process of dipping test sample strips inside different essential oils, a lengthy time consuming process, a process that involves personal preference. Thus, the combination of Meador and Riggs does not teach or suggest applicant's invention.

CONCLUSION

For the foregoing reasons, applicant's claims are patentable over the cited prior art and the application should be in condition for allowance.

Respectfully submitted,
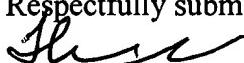
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14

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CERTIFICATE OF MAILING

I hereby certify that the foregoing Response was mailed by first class mail, postage

prepaid, in an envelope addressed to the Commissioner for Patents

P.O. Box 1450 Alexandria, VA 22313-1450 on this 7th day of, June, 2006.

Thomas A. O'Rourke

15